

Gainer M. Waldbillig (Utah Bar No. 04433)
Meghan A. Sheridan (Utah Bar No. 14315)

W| LAW

175 S. Main St.Suite 610
Salt Lake City, UT 84111
Telephone: (801) 532-9300

gmw@wlaw.net

mas@wlaw.net

Attorneys for Southwest Airlines Co.,

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

SHERIE LYNN ANDERSON,

Plaintiff,

v.

SOUTHWEST AIRLINES CO., a foreign corporation; JOHN AND JANE DOES 1-10; ABC CORPORATIONS 1-10 and XYZ PARTNERSHIPS 1-10,

Defendants.

**SOUTHWEST AIRLINES CO.'S
ANSWER TO COMPLAINT**

(Jury Trial Demanded)

Case Number: 2:18-cv-00921-PMW

Magistrate Judge: Paul M. Warner

Southwest Airlines Co., ("Southwest"), by counsel, hereby submits it's Answer and Affirmative Defenses to Plaintiff's Complaint (the "Complaint") and alleges as follows:

FIRST DEFENSE

To the extent that the Complaint and/or each cause of action fail to state a claim against Southwest upon which relief can be granted, they should be dismissed.

SECOND DEFENSE

Southwest responds to the specific numbered allegations of the Complaint and alleges as follows:

1. Southwest admits the allegations contained in paragraph 1 of the Complaint.

2. Southwest admits that it is a Texas Corporation with its principal place of business in Texas, and that it is licensed to do business and is doing business within the state of Utah. Southwest denies the remaining allegations contained in paragraph 2 of the Complaint.

3. Southwest is without sufficient information or knowledge to form a belief as to the truth of the allegations contained in paragraph 3 of the Complaint and therefore denies the same.

4. Southwest is without sufficient information or knowledge to form a belief as to the truth of the allegations contained in paragraph 4 of the Complaint and therefore denies the same.

JURISDICTION AND VENUE

5. Paragraph 5 of the Complaint comprises legal conclusions for which no response is required. To the extent paragraph 5 contains factual allegations, Southwest is without sufficient knowledge or information to form a belief as to the truth of the allegations and therefore denies the same.

6. Paragraph 6 of the Complaint comprises legal conclusions for which no response is required. Southwest admits that the causes of action arose in Salt Lake City. Southwest denies that it resides in the State of Utah. To the extent paragraph 6 contains other factual allegations, Southwest is without sufficient knowledge or information to form a belief as to the truth of the allegations and therefore denies the same.

7. Southwest admits the subject incident occurred at or near the Salt Lake International Airport located in Salt Lake City, Salt Lake County, State of Utah on July 1, 2014.

8. Southwest is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 8 of the Complaint and therefore denies the same.

9. Southwest denies the allegations contained in paragraph 9 of the Complaint.

10. Southwest is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 10 of the Complaint and therefore denies the same.

11. Southwest is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 11 of the Complaint and therefore denies the same.

NEGLIGENCE

12. Southwest denies the allegations contained in paragraph 12 of the Complaint.

13. Southwest denies the allegations contained in paragraph 13 of the Complaint.

14. Southwest denies the allegations contained in paragraph 14 of the Complaint.

15. Southwest denies the allegations contained in paragraph 15 of the Complaint.

16. Southwest denies the allegations contained in paragraph 16 of the Complaint.

17. Southwest denies the allegations contained in paragraph 17 of the Complaint.

18. Southwest denies the allegations contained in paragraph 18 of the Complaint.

19. Paragraph 19 of the Complaint comprises legal conclusions for which no response is required. To the extent paragraph 19 contains factual allegations, Southwest denies the remainder.

20. Paragraph 20 of the Complaint comprises legal conclusions for which no response is required. To the extent paragraph 20 contains factual allegations, Southwest denies the remainder.

21. Southwest denies the allegations contained in paragraph 21 of the Complaint.
22. Southwest denies all other allegations contained within Plaintiff's Complaint not specifically and expressly admitted herein.

THIRD DEFENSE

Plaintiff's claims should be barred or reduced to the extent that Southwest did not owe any duty of care, or in the alternative did not breach any duty of care owed to the Plaintiff.

FOURTH DEFENSE

To the extent that Plaintiff has any claims for damages, such claims were proximately caused by the negligence or other legal fault of the Plaintiff that was equal to or greater than the negligence, if any, of Southwest or other parties, then Plaintiff's claims may be barred or reduced.

FIFTH DEFENSE

To the extent that Plaintiff has any claims, her damages should be barred to the extent that they are the result of intervening and/or superseding causes or are the result of unforeseeable causes for which Southwest cannot be held liable.

SIXTH DEFENSE

Southwest is not liable to the extent that Plaintiff has failed to mitigate her damages.

SEVENTH DEFENSE

Plaintiff's damages should be barred or reduced to the extent that Plaintiff's injuries or damages, if any, were caused by a preexisting and/or unrelated medical, metabolic, genetic and/or environmental conditions, diseases or illnesses for which Southwest is not responsible.

EIGHTH DEFENSE

To the extent that Plaintiff has claims, Southwest specifically denies any negligence or fault and the amount of damages for which Southwest may be held liable to Plaintiff are limited

to the percentage or proportion of damages equivalent to the percentage or proportion of fault, if any, attributable to Southwest. Accordingly, the percentage or proportion of fault for all individuals, parties, or other persons or entities who may have caused or contributed to the cause of Plaintiff's damages, should be determined by the court or other finder of fact.

NINTH DEFENSE

Southwest is entitled to determine its appropriate amount of fault, if any, pursuant to Utah Code Ann. §§ 78B-5-818 and 819 and to limit its liability in proportion to each person's fault, if any, pursuant to Utah Code Ann. §78B-5-818-820. Southwest identifies the Plaintiff, and other unknown or unidentified parties, as persons who were or may be at fault in causing any of the claimed damages of the Plaintiff. For purposes of allocation of fault only and without admitting the allegations, the Plaintiff's Complaint contains the basis for allocation including Plaintiff's actions in dealing with the situation.

TENTH DEFENSE

To the extent that Plaintiff's damages, if any, were proximately caused by the negligence or other legal fault of third parties over whom Southwest has neither control nor right to control, then the Southwest is not liable.

ELEVENTH DEFENSE

Plaintiff's claims may be barred or reduced to the extent that the doctrines of waiver, estoppel, unclean hands, or contributory negligence apply to the facts of this case.

TWELFTH DEFENSE

Plaintiff's claims are barred to the extent they are preempted under the Air Carrier Access Act, the Airline Deregulation Act, or any other federal regulation or law.

THIRTEENTH DEFENSE

Southwest reserves the right to amend, modify, or supplement these defenses as may be necessary based on discovery in this matter.

JURY DEMAND

Southwest demands a trial by jury for all causes of action to which a right to a jury exists.

Dated this 5th day of December, 2018.

W | LAW

/s/ Meghan A. Sheridan
Attorneys for Southwest Airlines Co.

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of December, 2018, a true and correct copy of the foregoing **SOUTHWEST AIRLINES CO.'S ANSWER TO COMPLAINT** was filed electronically with the Court which served notice on all counsel of record:

Damian Kidd
DRIGGS, BILLS & DAY, P.C.
737 East Winchester Street
Salt Lake City, UT 84107
dkidd@lawdbd.com
Attorneys for Plaintiff

/s/ Meghan A. Sheridan